

**REMARKS/ARGUMENTS**

This Amendment is in response to the Advisory Action mailed February 25, 2009. Claims 1-18 were pending in this application. Claims 1, 8, and 15 have been amended herein. Claims 1-18 remain pending after entry of this amendment. Reconsideration of the rejected claims is respectfully requested.

I. Rejection under 35 USC § 103, Alaia

Claims 1-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alaia et al. (US Patent 6,199,050) (hereinafter "Alaia"). Applicants traverse the rejections.

Solely in order to expedite prosecution and without conceding to the merits of the rejection of the claims as previously presented, Applicants have amended independent claim 1, and Applicants submit that claim 1 is not rendered obvious by Alaia. For example, Applicants' claim 1 recites "an auction method for implementing automatic extension of an auction in response to bidding activity from auction participants" in an electronic commerce exchange, the method comprising:

- a) setting an end time for concluding an auction and a minimum bid threshold for postponing the end time for concluding the auction, the minimum bid threshold representing a total number of a plurality of bids that must be received within a predetermined time of the auction end time;
- b) receiving bids from remote bidders via a distributed computing network;
- c) dynamically updating the minimum bid threshold based on the bids received from the remote bidders;
- d) measuring a number of bids received within the predetermined time of the auction end time;
- e) if the measured number of bids exceeds the minimum bid threshold, extending the duration of the auction automatically and setting a new auction end time; and
- f) notifying auction participants of the new auction end time.

Alaia does not teach or suggest all of the features of Applicants' claim 1.

Applicants submit that Alaia does not teach or even suggest "setting an end time for concluding an auction and a minimum bid threshold for postponing the end time for concluding the auction, the minimum bid threshold representing a total number of a plurality of

bids that must be received within a predetermined of the auction end time,” “measuring a number of bids received within the predetermined time of the auction end time,” and “if the measured number of bids exceeds the minimum bid threshold, extending the duration of the auction automatically and setting a new auction end time” as recited in Applicants’ claim 1. Alaia merely discloses the use of various overtime triggers, which, if satisfied, cause an auction to be extended for a predetermined amount of time. See Alaia, col. 13, lines 40-67.

None of the overtime triggers described in Alaia require that minimum bid threshold be satisfied where the minimum bid threshold requires a plurality of bids to be received within a predetermined time of the auction end time in order for the auction to automatically be extended as in Applicants’ claim 1. Alaia merely describes various overtime triggers that require a single bid to be received that satisfies various bid criteria, such as price. For example, overtime might be triggered if a new bid is received that is lower than the current best bid (where the lowest bid wins). See Alaia, col. 13, lines 59-62. As a result, Alaia also fails to teach “measuring a number of bids received within the predetermined time of the auction end time” and “if the measured number of bids exceeds the minimum bid threshold, extending the duration of the auction automatically and setting a new auction end time” as recited in Applicants’ claim 1. The decision to extend duration of an auction in Alaia is based on the bid criteria of individual bids received, and does not depend on the rate at which bids are received “within the predetermined time of the auction end time” as recited in Applicants’ claim 1.

Alaia also fails to teach or even suggest “dynamically updating the minimum bid threshold based on the bids received from the remote bidders” as recited in Applicants’ claim 1. Alaia merely indicates that various overtime triggers can be defined *before* an auction has begun. Alaia does not indicate that these overtime triggers can be modified dynamically based on bids received, much less that the overtime triggers can be modified once an auction has begun.

For at least the reasons provided, Applicants submit that Alaia fails to teach or suggest all of the features recited in Applicants’ claim 1. Claims 2-7 depend from claim 1 and are allowable at least due to their dependence from claim 1.

Accordingly, withdrawal of the rejection of claims 1-7 is respectfully requested.

II. Rejection under 35 USC § 103, Alaia in view of eBay

Claims 7 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alaia in view of eBay Help Basics, Frequently Asked Questions on Bidding (hereinafter “eBay”). Claims 7 and 13 depend from independent claim 1, which is not rendered obvious by the disclosures of Alaia as discussed above. Accordingly, claims 7 and 13 are also not rendered obvious by the disclosures of Alaia for at least a similar rationale as discussed above for claim 1.

Applicants further submit that eBay does remedy the deficiencies in the disclosures of Alaia with respect to these claims. eBay does not appear to teach anything about measuring the numerical count of bids received for a predetermined time. Accordingly, Applicants submit that even if the disclosures of Alaia and eBay were combined as suggested by the Office Action (even though there appears to be no motivation for the combination), the resultant combination would not make obvious the features recited in claims 7 and 13. Applicants thus submit that claims 7 and 13 are patentable over a combination of the disclosures of Alaia and eBay.

Claims 8-12, and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alaia and further in view of eBay Help Basics, Frequently Asked Questions on Bidding (hereinafter “eBay”). Solely in order to expedite prosecution and without conceding to the merits of the rejection of the claims as previously presented, Applicants have amended independent claim 8, and Applicants submit that claim 8 is not rendered obvious by a combination of Alaia and eBay. For example, Applicants' claim 8 recites “an auction method for implementing dynamic automatic extension of an auction in response to bidding activity from auction participants” in an electronic commerce exchange, the method comprising:

- a) setting a start time and an end time for an auction and a minimum bid threshold for postponing the end time for concluding the auction, the minimum bid threshold representing a total number of a plurality of bids that must be received within a predetermined time of the auction end time;
- b) receiving bids from remote bidders via a distributed computing network;

- c) dynamically updating the minimum bid threshold based on the bids received from the remote bidders;
- d) setting a minimum bid difference at which a succeeding bid must differ from a preceding bid from the remote bidders;
- e) measuring a number of bids received within a predetermined time of the auction end time;
- f) if the measured number of bids exceeds the minimum bid threshold, extending the duration of the auction automatically and setting a new auction end time; and
- g) notifying auction participants of the new auction end time.

Alaia and eBay, either alone or in combination, do not teach or suggest all of the features of Applicants' claim 8.

As indicated above, Alaia does not teach or even suggest "setting a start time and an end time for an auction and a minimum bid threshold for postponing the end time for concluding the auction, the minimum bid threshold representing a total number of a plurality of bids that must be received within a predetermined time of the auction end time," "measuring a number of bids received within a predetermined time of the auction end time," and "if the measured number of bids exceeds the minimum bid threshold, extending the duration of the auction automatically and setting a new auction end time" as recited in Applicants' claim 8. Alaia merely discloses the use of various overtime triggers, which, if satisfied, cause an auction to be extended for a predetermined amount of time. See Alaia, col. 13, lines 40-67. None of the overtime triggers described in Alaia require that minimum bid threshold be satisfied where the minimum bid threshold requires a plurality of bids to be received within a predetermined time of the auction end time in order for the auction to automatically be extended as in Applicants' claim 8.

Alaia also fails to teach "dynamically updating the minimum bid threshold based on the bids received from the remote bidders" as recited in Applicants' claim 8. Alaia merely indicates that various overtime triggers can be defined *before* an auction has begun. Alaia does not indicate that these overtime triggers can be modified dynamically based on bids received, much less that the overtime triggers can be modified once an auction has begun.

eBay fails to remedy the deficiencies of Alaia. eBay is merely directed to a automated proxy bidding system for an online auction. See eBay, page 1. The proxy bidding system of eBay merely automatically places bids for a user up to a maximum bid amount in the event that the user is outbid by another bidder. See eBay, page 1. The proxy bidding system described in eBay does not teach or even suggest dynamically updating minimum bid thresholds for an auction based on bids received, much less automatically be extending the end time of an auction if the minimum bid thresholds are satisfied as recited in Applicants' claim 8.

For at least the reasons provided, Applicants submit that the combination of Alaia and eBay fails to teach or suggest all of the features recited in Applicants' claim 8. Claims 9-12 and 14 depend from claim 8 and are allowable at least due to their dependence from claim 8.

Accordingly, withdrawal of the rejection of claims 8-12 and 14 is respectfully requested.

### III. Rejection under 35 USC § 103, Brett in view of Alaia

Claims 15-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brett (US Patent 6,704,713) (hereinafter "Brett") in view of Alaia. Applicants traverse the rejections.

Applicants submit that claim 15 is not rendered obvious by a combination of Brett and Alaia. For example, Applicants' claim 15 recites a "method of automatically extending an auction," the method comprising:

- setting an end time for concluding an auction and a minimum bid threshold for postponing the end time for concluding the auction, the minimum bid threshold representing a total number of a plurality of bids that must be received within a predetermined time of the auction end time;
- receiving bids from remote bidders via a distributed computing network;
- dynamically updating the minimum bid threshold based on the bids received from the remote bidders;
- measuring a rate at which incoming bids are received;
- if the measured rate of incoming bids exceeds the minimum bid threshold, automatically extending the duration of the auction and setting a new auction end time; and
- notifying auction participants of the new auction end time.

Brett and Alaia, either alone or in combination do not teach or suggest all of the features of Applicants' claim 15.

Applicants submit that neither Brett nor Alaia teaches or even suggests "dynamically updating the minimum bid threshold based on the bids received from the remote bidders" as recited in Applicants' claims 15. Brett merely describes a bidding activity meter that provides a graphical representation of the rate of bidding on tickets in a venue. The auction in Brett is automatically terminated upon reaching a minimum level of bidding. The bidding activity meter of Brett merely provides a graphical representation of the level of bidding at a particular point in time during the auction. See Brett, Fig. 15, reference no. 302, and col. 13, lines 1-30. Brett does not, however, teach or even suggest that the minimum levels are "dynamically updated ... based on the bids received from the remote bidders" as recited in Applicants' claim 15.

Alaia fails to remedy the deficiencies of Brett. As described above, Alaia fails to teach dynamically updating the minimum bid thresholds once an auction has been started. Alaia merely indicates that various overtime triggers can be defined *before* an auction has begun. Alaia does not indicate that these overtime triggers can be modified dynamically based on bids received, much less that the overtime triggers can be modified once an auction has begun.

For at least the reasons provided, Applicants submit that the combination of Alaia and eBay fails to teach or suggest all of the features recited in Applicants' claim 15. Claims 16-18 depend from claim 15 and are allowable at least due to their dependence from claim 15.

Accordingly, withdrawal of the rejection of claims 8-12 and 14 is respectfully requested.

IV. Amendment to the Claims


Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



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